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May 21, 1998

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Madame Secretary;

Fuller-Jeffrey Broadcasting Companies, Inc. hereby submits comments to the FCC
Notice of Inquiry on MM Docket No. 98-35 dated March 13, 1998.

Enclosed is an original and nine copies for a basic filing and individual distribution to
each Commissioner.

Very Truly Yours,
FULLER-JEFFREY BROADCASTING COMPANIES, INC.

A handwritten signature in dark ink, appearing to read 'R.L. Caron', is written over a large, stylized, handwritten 'J' or 'F' that serves as a background for the signature.

R.L. Caron
Senior Vice President

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Before the
Federal Communications Commission

Washington, DC 20554

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In the matter of)
)
1998 Biennial Review of the)
Commission's Broadcast Ownership)
Rules and Other Rules Adopted)
Pursuant to Section 202 of the)
Telecommunications Act of 1996.)

MM Docket No. 98-35

To: Chief, Mass Media Bureau

**COMMENTS OF
FULLER-JEFFREY BROADCASTING COMPANIES, INC.**

Fuller-Jeffrey Broadcasting Companies, Inc. (FJBC) hereby submits comments on the above referenced Notice of Inquiry dated March 12, 1998. Let it be noted that FJBC is exclusively a radio company, and that its comments and conclusions are directed to the Commission from the radio broadcaster's perspective.

I. Diversity

The three forms of diversity requisite to the Commission's public interest mandate—viewpoint, outlet, and source—also are essential to assure a continued role of importance for the electronic media well into the future. The following examines each individually.

(a.) Viewpoint Diversity: In the opinion of FJBC, this kind of diversity is alive and well in the post-deregulation era. The perception that the media is heavily slanted is one that lives on despite the indisputable fact that partisans from both the right and the left are each convinced that the other side unfairly controls the debate. Certainly, obvious political labels and other characterizations can be applied to the programming content of one outlet compared to another, and some even claim to perceive ideological delineations between delivery services. However, any honest appraisal by all but the aforementioned rabid partisans must conclude that there remains a broad diversification of viewpoints available via the electronic media over which the Commission provides regulatory guidance. Within the concept of radio, television, cable, and satellite services—a full spectrum of opinion and fact exists.

(b.) Outlet Diversity: Unrealistically low ownership limits placed a severe economic strain on small and medium sized companies in radio station ownership before the Telecom Act of 1996 finally provided relief. Unnecessary duplication of staff and facilities between radio outlets in the same markets left the prospects of profit from a single station operation less than 50%. Now, two years have elapsed and the worst fears of the opponents of deregulation have yet to materialize. With the total number of ownership entities in most markets reduced to a level approximating economic reality, the radio industry is enjoying an unprecedented level of success and stability. As a result, the industry is in a better position to contribute to the public interest.

The downward trend in the number of minority owners, if it proves disproportionate to the overall reduction of separate ownership entities, would best be addressed with a return to the “tax certificate” policy of the past. The offer of such financial incentives to sellers has proven effective in opening opportunities to minority-controlled companies. Such a move today should be no less effective in fulfilling the Commission’s goals of a substantial minority representation in

broadcast ownership. Fuller-Jeffrey Broadcasting endorses the recent NAB proposal to restore the granting of tax certificates to sellers who pass their properties on to minority interests.

(c.) Source Diversity: The loss of diversity in programming was a primary objection to ownership consolidation prior to the rules promulgated by Section 202(h) of the Telecom Act. However, gathering more stations under the umbrella of successful operations has had the opposite effect: Unnecessary format duplication—“me too” thinking—is increasingly rare today as ownership entities program to minimize audience overlap. Narrowly defined formats are less daunting to launch and nurture within the economies of scale inherent in multi-station operations. FJBC programs an all-sports format in Portland, Maine under the umbrella of two other more successful stations. Experience to date indicates self-sufficiency for the sports station is likely to be far into the future. However, the company is able to sustain the station’s current losses because economic viability appears an eventual possibility under the consolidated operation. Another FJBC station in the same cluster was able to revive and take to prominence a format abandoned by a previous owner who was unable to maintain the station as a stand-alone. The cause of diversity has also been fostered at other Fuller-Jeffrey Broadcasting stations. WCYI, WXPB, WPKQ were all revived from financial difficulties and returned to greater service in the public interest following the implementation of Section 202(h) of the Telecom Act.

II. Competition

While FJBC endorses the Commission’s view that its public interest mandate promotes consumer welfare and efficient use of resources, we do not believe that there is a bright line between its concerns for diversity and those for promoting competition. It is our feeling that the proper administration of one concept will almost certainly assure the fulfillment of the other. This is not to suggest that the distinctions between the two be

further blurred or minimized, but to advance the notion that diversity and competition share some common characteristics that could become the subject of future Commission focus. FJBC believes, however, that the two distinct forms of concentration, horizontal and vertical, present different challenges to the regulatory environment and wishes the Commission to consider each in that context.

(a.) Horizontal Concentration: The horizontal concentration resulting from rule changes under Section 202 of the Telecom Act has not, in the markets in which FJBC operates, caused rates to rise above competitive levels simply because radio represents such a small portion of the total advertising expenditure. While a very effective medium when competitively priced, radio is rarely the primary or exclusive marketing choice of most businesses: attest radio's 7% nationwide share of the advertising dollar. Advertisers have—in addition to radio—the choice of television, daily and weekly newspapers, billboards, transit, cable, magazines, and direct mail, all of which are aggressively marketed by their respective sales organizations. In an average market situation, the television stations collectively command three times the market radio revenue, with newspapers reaping a similar or slightly larger amount of the available advertising expenditure. Relaxed ownership rules notwithstanding, radio—at best a minor player in the advertising industry writ large—is hardly in a position to demand confiscatory rates.

Realizing the long-term value of market competition, FJBC maintains a substantial amount of separation and independence in its programming, promotion, and sales functions. It is our impression that most of our competitors do so as well.

(b.) Vertical Concentration: In contrast to the controls on horizontal concentration, there appears to exist little if any effort to regulate the vertical component of this aspect of the competitive environment. It is the belief of FJBC that absent some regulatory oversight on the integration of suppliers of services with the delivery systems there may develop undue competitive advantages to the

detriment of the Commission's goals of ownership and competitive diversity. For example, a company that owns several radio stations in a market—and concurrently the owner of several popular syndicated talk shows, the most prominent research firm in the industry, and one of the limited number of radio sales representative organizations—could easily maneuver into a position of complete dominance over the remainder of the market's facilities by the simple expedient of tying up for its own stations all or most of the suppliers of critical services.

Admittedly, specific examples of detriment to the industry due to vertical concentration have yet to fully materialize. However, the potential for such an effect must be weighed with consideration for future vertical development in the industry and the inevitable reality of a less robust economy.

The \$14 billion United States radio industry is a relatively small one. Section 202(h) of the Telecom Act allowed market forces to become the primary driving factor in the number of ownership groups operating at the retail level. That has resulted in between two and six significant operators in most markets, who in turn depend upon a very limited diversity of suppliers of syndicated programming, sales, research, news, and promotional services. That there are currently no explicit guidelines for the ownership of one or more critical suppliers of services to the industry by a radio station operator creates a condition, FJBC believes, with a significant chance of fostering operational practices inimical to the concepts of fair competition.

III. Conclusion

It is FJBC's contention that the current radio ownership limits set under Section 202 adequately serve the purpose of the Commission's diversity and competition

responsibilities, *and should be retained without modification for the foreseeable future.*

FJBC is, however, concerned that the lack of controls on vertical concentration will lead to an undermining of the Commissions most important concerns for the radio broadcast industry. Fuller-Jeffrey Broadcasting urges additional Commission scrutiny in the area of vertical integration, and will comment further if such action leads to a proposal of additional regulation.

Respectfully submitted,

Fuller-Jeffrey Broadcasting Companies, Inc.

May 20, 1998